

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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|--|---|------------------------------------|
| AUGUST BYRON KREIS, IV, | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | CIVIL ACTION NO. 21-CV-3321 |
| | : | |
| PALMER TOWNSHIP | : | |
| POLICE DEPARTMENT, <i>et al.</i>, | : | |
| Defendants. | : | |

ORDER

AND NOW, this 20th day of January 2022, upon consideration of Plaintiff August Byron Kreis, IV's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 8), and Amended Complaint (ECF No. 11), and for the reasons stated in the Court's Memorandum, it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. August Byron Kreis, IV, #5264, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Warden of Northampton County Jail or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Kreis's inmate account; or (b) the average monthly balance in Kreis's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Kreis's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to

Kreis's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court shall **SEND** a copy of this Order to the Warden of Northampton County Jail.
4. The Amended Complaint (ECF No. 11) is **DEEMED** filed.
5. The earlier Complaints (ECF Nos. 2, 4, 5, 6, and 10) are **DISMISSED without prejudice** as superseded.

6. Consistent with the caption of the most recent Amended Complaint, the Clerk of Court is **DIRECTED** to remove the following Defendants from the docket: Palmer Township Police Department and Magisterial District Number 03-2-09. The Clerk of Court is **DIRECTED** to add the following Defendants to the docket: Palmer Township, Jacqueline Taschner, Kenneth McPherson, John Gillen, and James Alercia.

7. Kreis's claims against Defendant Jacqueline Taschner are **DISMISSED with prejudice and without leave to amend**. Kreis may not file an amended complaint as to Taschner.

8. Kreis's claims against Palmer Township are **DISMISSED without prejudice and with leave to amend**. Kreis may file an amended complaint as to Palmer Township.

9. The Clerk of Court is directed to **SEND** Kreis a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.¹

10. Kreis may file a further amended complaint no later than **February 20, 2022**. Any amended complaint shall identify all defendants in the caption of the amended complaint in

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/forms/frmc1983f.pdf>.

addition to identifying them in the body of the amended complaint, and shall state the basis for Kreis's claims against each defendant. If Kreis files an amended complaint, his amended complaint must be a complete document that includes all of Kreis's claims, including claims in the Amended Complaint (ECF No. 11) against Defendants Evan Goldstein, Patrick Cline, Kenneth McPherson, John Gillen, and James Alercia if he seeks to proceed on those claims.

Claims that are not included in the amended complaint will not be considered part of this case. When drafting his amended complaint, Kreis should be mindful of the Court's reasons for dismissing certain claims as explained in the Court's Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so ordered by the Court.

11. If Kreis does not file a further amended complaint, the Court will direct service of the current Complaint (ECF No. 11) on Defendants Goldstein, Cline, McPherson, Gillen, and Alercia. Kreis also may notify the Court that he seeks to proceed on these claims rather than file a further amended complaint. If he files such a notice, Kreis is reminded to include the case number for this case, 21-3321.

12. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** to the date 90 days after the Court issues summonses in this case.

BY THE COURT:

/s/ **Cynthia M. Rufe**

CYNTHIA M. RUFÉ, J.